



TOWN OF HOLDERNESS NEW HAMPSHIRE

Proposed 2016 Holderness Zoning Ordinance Warrant Articles

1. Amend Section 300.4.5, Flood Hazard Overlay District, to clarify Special Exceptions which are permitted; amend the time of year that structures with wheels are permitted on properties; and delete archaic language which states the cost of flood insurance.

300.4.5.5: Special Exceptions which may be permitted are:

- (1) ~~Uses of structures accessory to permitted or special exception uses.~~
- (2) Fairgrounds and similar transient amusement enterprises.
- (3) Railroads, streets, bridges, utility lines, and pipelines.

Commented [L1]: Accessory uses need not be listed.

300.4.5.7:

- (6) Structures shall be firmly anchored to prevent floatation, collapse or lateral movement of the structure, or the structure may be on wheels and towable so as to be moved on a very short notice. If a structure with wheels is permitted, the structure must be taken off the property from the first of November of each year and may not be placed back in the Flood Hazard Overlay District until the first of May the following year.

Commented [L2]: Clarifying May of following year.

300.4.6.14:

- (3) The Zoning Board of Adjustment shall notify the Applicant in writing that: (i) the issuance of a Variance to construct below the base flood level may result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and (ii) such construction below the base flood level increases risks to life and property. Such notifications shall be maintained with a record of all Variance actions.

2. Amend Section 400.22, Outdoor Wood-Fired Hydronic Heaters, to clarify the meaning in the second sentence by replacing "be applicable to a" with "meet the standards of a" and update the Section per State and federal law.

400.22: Outdoor Wood-Fired Hydronic Heaters (March 2009): All new outdoor wood fired hydronic heaters (OWHH) will have to meet the standards of a be applicable to a Phase I or Phase II unit effective April 1, 2009 and must meet all unit requirements and setbacks to RSA 125-R, except for the following change to RSA 125-R:3 II: Setback and Stack Height Requirements which will require that all OWHH shall be installed at least 100-feet from the nearest property line and have a permanent attached stack that is at least 2 feet higher than the peak of the roof of a residence or place of business not served by the OWHH if that residence or place of business is located within 300 feet of the OWHH.

3. Amend Section 400.23.4.3, Small Wind Energy Systems, to clarify that these systems are accessory to residential uses per the definition in this Section and to revise

language stating that decommissioning occurs if the system is not “used for a period of twelve consecutive months” instead of “in use for a period of 1 year.”

400.23.4.3: Small wind energy systems shall be an accessory permitted use in all zoning classifications and subject to the requirements set forth below...

400.23.4.14: Decommissioning: If the wind energy system is not used for a period of twelve consecutive months, ~~it is use for a period of 1 year~~, it must be disassembled by the property owner unless a specific and time-bound extension is provided by the Selectmen.

4. Amend Section 525.3.13, Groundwater Protection, to strike the words, “and soils data; boring logs may be submitted separately.”

525.3.13: Seasonal high water table: elevation of the highest annual average ground/water table location ~~and soils data; boring logs may be submitted separately.~~

5. Amend Section 1300, Definitions, Recreational Camping Park or Recreational Campground, to strike the duplicate wording, “as temporary living quarters,” in the fourth line of the definition.

Recreational Camping Park or Recreational Campground – Shall mean a plot of ground upon which two or more temporary living quarters, such as: travel trailers, tent campers, tents, pickup campers, or similar types of vehicles or structure are located, established or maintained, and operated as temporary living quarters for children or adults for recreation (including education or vacation purposes) either free or by payment of a fee. Occupancy of a recreational site shall not fulfill residency requirements for the Town of Holderness, NH.

6. Amend entire Section 575, Telecommunications Facilities (see following document).

Commented [L3]: This appears to be an error and the Board thinks this wording should not be here.

SECTION 575 TELECOMMUNICATIONS FACILITIES (March 2013)(March, 2016)

~~575.1. Authority, Purpose, and Intent:~~ It is the express purpose of this Section ~~Ordinance~~ to permit carriers to locate telecommunications facilities within the Town of Holderness consistent with appropriate land use regulations that will ensure compatibility with the visual and environmental features of the Town. ~~This Ordinance~~ Section enables review of the location and siting of telecommunications facilities by the Town of Holderness so as to reduce the adverse impacts such facilities may create on, including, but not limited to, migratory bird flight corridors, impacts on aesthetics, environmentally sensitive areas, historically significant locations, health and safety by injurious accidents to person and property, and diminution of property values. ~~This Ordinance~~ It is structured to encourage carriers to locate on existing buildings and structures whenever possible. New ground mounted telecommunications facilities are permitted, but only when the use of existing structures and buildings are found to be impractical. Co-location is encouraged for all telecommunications facility applications and the review of a telecommunication facility shall be on the basis of the site being built using all positions on the tower. ~~This Ordinance~~ is adopted for the stated purposes pursuant to the authority granted in RSA 674:16 ~~21 and 674:42.~~

Commented [LJ]: Unnecessary

575.2 Applicability: No person shall, within the Town of Holderness, build, erect, or install a telecommunications facility, or a structure intended for use in conjunction with such a facility, without a building permit and Site Plan ~~approval~~ approval, if required, by the Planning Board. All provisions of the Site Plan Review Regulations shall apply, except where plainly ~~the~~ ~~the~~ the application is exempted by State and Federal law, ~~with this Ordinance.~~

575.3 Definitions:

Antenna: any exterior apparatus designed for telephonic, radio, television, communications service, pager network, or any other communications through the sending and/or receiving of electromagnetic waves of any frequency and bandwidth.

Antenna array: a collection of antennae attached to a mount to send and receive radio signals.

Average Tree Canopy Height: an average height found by inventorying the height above ground level of all trees over 20 feet in height for a radius of 150 feet.

Carrier: a Company that provides personal wireless services, also sometimes referred to as a provider.

Co-location: the use of a single mount on the ground by more than one carrier (vertical co-location) or the same carrier with multiple licenses, and/or the use of several mounts on an existing building or structure by more than one carrier or the same carrier with multiple licenses.

Equipment Shelter: an enclosed structure, cabinet, shed, vault, or box near the base of the mount within which are housed equipment for telecommunication facilities such as batteries and electrical equipment. Equipment shelters are sometimes referred to as base transceiver stations.

Facility: see Telecommunication Facility.

Fall Zone: the area on the ground from the base of a ground mounted telecommunication facility that forms a circle with a diameter equal to twice the height of the facility, including any antennae or other appurtenance. The fall zone is the area within which there is a potential hazard from falling debris (such as ice) or collapsing material.

Guyed Tower: a monopole or lattice tower that is secured to the ground or other surface by diagonal cables for lateral support.

Lattice Tower: a type of mount with multiple legs and structural cross bracing between the legs that is self-supporting and freestanding.

Mast: a thin pole that resembles a streetlight standard or a telephone pole. A dual-polarized antenna is typically deployed on a mast.

Monopole: a thicker type of mount than a mast that is self-supporting with a single shaft of wood, steel or concrete, or other material, that is designed for the placement of antennae and arrays along the shaft.

Mount: the structure or surface upon which antennae are mounted, including the following four types of mounts: (1) Roof mounted – mounted on the roof a building; (2) Side-mounted – Mounted on the side of a building; (3) Ground-mounted – mounted on the ground; and (4) Structure-mounted – Mounted on a structure other than a building.

Radio Frequency Radiation: the emissions from telecommunication facilities.

Security Barrier: a wall, fence, or berm that restricts an area from unauthorized entry or intrusion.

Separation: the distance between one carrier's array of antennae and another carrier's array.

Telecommunication Facility: facility for the provision of personal wireless services, as defined by the Telecommunications Act of 1996, as amended. Telecommunication facilities generally include a mount, antenna, equipment shelter, and other related equipment.

575.4 Location: Telecommunications facilities may be permitted in all districts as a primary or accessory uses. ~~See the list of uses as listed in the Master Plan shall be taken into consideration when siting a telecommunication facility.~~

575.4.1 Existing Structures Policy: Telecommunications facilities may be located on existing structures, including, but not limited to, buildings, water towers, existing telecommunication facilities, utility poles or towers, and related facilities, provided that such installation preserves the character and integrity of those structures.

575.4.2 Existing Structures Burden of Proof: The Applicant shall have the burden of proving that

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there are no existing structures which are suitable to locate its telecommunication facility and/or to transmit or receive radio signals. To meet that burden, the Applicant shall take all the following actions to the extent possible:

575.4.2.1: The Applicant shall submit to the Planning Board a list of all contacts made with owners of all existing potential sites regarding the availability of potential space for a telecommunication facility.

575.4.2.2: The Applicant shall provide copies of all letters of inquiry made to owners of existing structures and letters of rejection.

575.4.2.3: Certification by a licensed professional engineer shall be submitted for all existing facilities deemed by the Applicant as incapable of physically supporting co-location without radio frequency interference.

575.4.2.4: Ground mounted telecommunications facilities shall be designed so as to be reasonably camouflaged to the greatest extent possible in the judgment of the Planning Board. Review shall include, but is not limited to, use of compatible building materials and colors, screening, landscaping, and placement within trees. It is understood that facilities taller than the existing surrounding tree canopy may not be totally camouflaged.

575.4.2.5: The Planning Board may require a review or independent study by a consultant chosen by the Board at the expense of the Applicant to determine compliance with this Section of the Ordinance as needed.

575.5 Permitted Uses: Telecommunications facilities ~~may be~~ are considered either ~~primary or secondary accessory~~ primary uses. Having an existing permitted use on the site shall not preclude the addition of a facility as a secondary use as long as all other provisions of this ~~Ordinance~~ Section are met. A different existing use or an existing structure on the same lot shall not preclude the installation of a facility on such lot. For purposes of determining whether the installation complies with district regulations, including, but not limited to, setback and lot coverage requirements, the dimensions of the entire lot shall control, even though the facility may be located on leased parcels within such lots. Facilities that are installed in accordance with the provisions of this ~~Ordinance~~ Section shall not be deemed to constitute the expansion of a nonconforming use or structure.

575.5.1: This ~~Ordinance~~ Section shall not govern any tower, or the installation of any antenna that is under 70 feet in height and is owned and operated by a federally licensed amateur radio station operator or is used exclusively for receive-only antennas as ~~permitted to RSA 674:16, IV,~~ per State law and regulations.

575.5.2: Existing Tower Facilities: Carriers may locate on a telecommunication facility on any guyed tower, lattice tower, mast, or monopole in existence prior to the adoption of this Section of the Ordinance subject to compliance with the Zoning Ordinance and Site Plan Regulations. This provision shall only apply as long as the height of the mount shall not be increased, a security barrier already exists, and the area of the security barrier is not increased.

575.5.3: Reconstruction of Existing Tower Facilities: An existing guyed tower, lattice tower, monopole, or mast in existence prior to the adoption of this Section of the Ordinance may be reconstructed with a maximum 20 foot increase in height so as to maximize co-location. The standards of this ~~Ordinance~~Section must be met and the 20 foot increase in height does not increase the existing facility to exceed 150 feet in height. The mount shall be replaced with a similar mount that does not significantly increase the visual impact on the community. ~~Site Plan Review shall be required.~~

Commented [L3]: To comply with the Federal Telecommunications Act of 1996 and RSA 12-K

575.5.4: Existing Structures: a carrier may locate a telecommunication facility on an existing structure, building, utility tower or pole, or water tower subject to the provisions of ~~this~~ ~~Ordinance~~Section and Site Plan Regulations.

575.5.5: Ground Mounted Facility: A telecommunication facility involving construction of a ground mount shall require Site Plan Review and compliance with ~~this~~ ~~Ordinance~~Section.

575.5.6: Any alteration of the original permitted use and device configuration of the facility shall require a new approval, unless exempted.

575.6 Application Requirements: The Planning Board shall act upon the application in accordance with the procedural requirements of the Site Plan Regulations pursuant to State law and regulations ~~RSA 676:4~~. In addition, the Applicant shall provide the following information:

575.6.1 All Applications

575.6.1.1 Proof of legal authority of the Applicant to use the proposed site, including but not limited to, proof of ownership of the land or structure, copies of any easements, or a lease or other contractual right to use the site; and

575.6.1.2: Plans of the site, including but not limited to, landscaping, with all dimensions and other requirements of this ~~Ordinance~~Section labeled and shown to be met by the plan; and

575.6.1.3: A written description of the facility and any support structures, and its coverage range, with a description of the technical reasons for its design; and

575.6.1.4: An inventory of the location , design, and height of any other telecommunication facilities, either within, or within 2 miles of the Town of Holderness, with a statement of what role the proposed facility plays in the Applicant's plan for service coverage.

575.6.2 New or Reconstructed Facility or Ground Mount

575.6.2.1: A description of the support structure, proof of structural integrity, and the technical reasons for its design; and

575.6.2.2: A visual study demonstrating compliance with the visibility and camouflage

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requirements of this ~~Ordinance~~Section: and

575.6.2.3: A licensed engineer's certification that the facility has been designed with the maximum capacity for co-location in light of its dimensions.

575.6.3: In addition to the Site Plan Regulation noticing requirements, any application for new a Telecommunications Facility shall include the name and mailing address of any municipality or portion thereof, which lies within a 20 mile radius of the proposed facility. Notice to such municipality shall be provided in the same manner as specified for abutters and shall allow representatives of the municipality and their residents to comment at any public hearing related to the application. Regional notification and comments from other municipalities and their residents shall not be construed to imply legal standing to challenge any decision.

575.7: Construction & Dimensional Requirements: All facilities shall meet or exceed current standards and regulations of the FAA, FCC, and any other agency of the federal government with the authority to regulate such facilities. If such standards and regulations are changed, the owners of facilities governed by this ~~Ordinance~~Section shall bring the facility into compliance within 6 months of the effective date of the changes, unless a more stringent compliance schedule is mandated by the controlling federal agency. Failure to bring facilities into compliance with any changes shall constitute grounds for removal of the facility or antenna at the owner's expense, in accordance with Section 575.10 of the Ordinance.

To ensure the structural integrity of towers and antennae, all facilities shall be inspected every three years by a licensed engineer approved by the Town with the cost to be paid by the owner. The engineer will submit a report to the ~~Town~~ and the owner. The owner shall be notified of any non-compliance which shall be brought into compliance within 30 days of notification. Failure to bring the facility into compliance shall constitute abandonment and grounds for removal of the facility according to Section 575.10.

575.7.1: Height: The height of a tower shall be the minimum height necessary for service, but shall not exceed 150 feet.

575.7.2: Setbacks and Separation: In addition to compliance with the minimum zoning district setback requirements for all structures, towers shall be set back a distance equal to 150 percent of the height of the tower from all property lines. The fall zone may cross property lines subject to submission of a fall zone easement from the abutting property owner(s). The area of the easement shall be shown on all applicable plans and the terms of the easement shall be provided with the Site Plan application submission.

575.7.3: Security Fencing: Towers shall be enclosed by security fencing not less than 6 feet in height and shall also be equipped with an appropriate anti-climbing device.

575.7.4: The height of a facility shall not increase the height of a structure by more than 15 feet.

575.8: Performance and Design Standards:

575.8.1: Visibility: All telecommunication facilities shall be designed and installed in such a manner that, in the judgment of the Planning Board, there shall be no unreasonable adverse visual impact on the area where the facility is located and any adverse visual impact shall be adequately mitigated. The Board shall utilize the following standards:

575.8.1.1: Change in community scale, as exhibited in relative height, mass, or proportion of the facility within its proposed surroundings; new visible elements proposed on a contrasting background; different colors and textures proposed against a contrasting background, and use of materials that are foreign to the existing built environment.

575.8.1.2: Visual mitigation shall be determined on amount and type of landscaping and / or natural vegetation; preservation of view corridors, vistas, and view sheds; and continuation of existing colors, textures, and materials.

575.8.2: Camouflage

575.8.2.1: When a facility extends above the height of a building on which it is mounted, every effort shall be made to conceal or camouflage the facility within or behind existing or new architectural features to limit its visibility from public ways. Facilities mounted on a roof shall be stepped back from the front façade in order to limit their impact on the building's silhouette.

575.8.2.2: Facilities which are side mounted shall blend with the existing building's architecture and the panels shall be painted or shielded with material consistent with the design features and materials of the building.

575.8.2.3: All ground mounted facilities shall be surrounded by a fully-grown buffer of dense tree growth that extends continuously for a minimum distance of 150 feet from the mount, security barrier, or designated clear area for access to equipment, whichever is greatest, and screens views of the facility in all directions. These trees must be existing on the subject property, planted on site, or be within a landscape easement on an adjoining site. The Planning Board shall have the authority to decrease, relocate, or alter the required buffer based on site conditions. The vegetative buffer area shall be protected by a landscape easement or be within the area of the carrier's lease. The easement or lease shall specify that the trees within the buffer shall not be removed or topped, unless the trees are dead or dying and present a hazard to persons and / or property.

575.8.3: The portion of the facility extending above the height of the vegetation immediately surrounding it shall be of a color which blends with the background or surroundings.

575.8.4: Equipment shelters shall be designed consistent with one of the following design standards:

575.8.4.1: The shelter shall be located in underground vaults; or

575.8.4.2: The shelter is architecturally consistent, with respect to materials and appearance, to buildings in the area of the facility; or

575.8.4.3: The shelter shall be camouflaged behind an effective year-round landscape buffer, equal to the height of the proposed building, and / or a wooden fence if other types of camouflaging are not feasible; the style of fencing and / or landscape buffer shall be determined by the Planning Board for compatibility with the neighborhood; or

575.8.4.4: A shelter mounted on a roof top shall be concealed or camouflaged so that the shelter is either not visible at grade or appears to be part of the original structure.

575.8.5: Lighting: The mounts of facilities shall be lighted only if required by the Federal Aviation Administration (FAA). All other lighting shall be in compliance with Section 550 of this Ordinance.

575.8.6: Signage: Signs shall be limited to those needed to identify the property and the owner and warn of any danger. All signs shall comply with Section 400.6 of this Ordinance.

575.8.7: Scenic Landscapes and Vistas: Consideration shall be given to placement of ground-mounted facilities within open areas that are clearly visible from public roads, recreational areas, or abutting properties such that there is minimum impact to scenic landscapes and vistas.

575.8.8: Driveways: Existing entrances and driveways to serve a telecommunication facility shall be utilized unless the Applicant can demonstrate that a new entrance and driveway will result in less visibility, traffic, and environmental impact. New driveways to serve a facility shall not exceed 12 feet in width, shall be a crushed stone surface, and shall conform to Site Plan Regulations.

575.8.9: Antenna Types: An antenna array placed upon an existing or proposed ground-mount, utility pole, or transmission line mount, shall have a diameter of no more than 4 feet, exclusive of the diameter of the mount. The Planning Board may permit a larger diameter antenna array after a finding that the visual impacts of a larger antenna array are negligible.

575.8.10: Ground and Roof Mounts: all ground mounts shall be of a mast type mount. Lattice towers, guyed towers, and roof-mounted monopoles are expressly prohibited unless constructed as part of a reconstruction project permitted under Section 575.5.3.

575.8.11: Hazardous Waste: No hazardous waste shall be discharged on the site of any telecommunication facility. If any hazardous materials are to be used on site, there shall be provisions for full containment of such materials. An enclosed containment area shall be provided with a sealed floor, designed to contain at least 110 percent of the volume of the hazardous materials stored or used on the site.

575.8.12: Noise: Telecommunication facilities constructed with lattice work will be designed to mute and /or suppress noise.

575.9: Monitoring and Maintenance

575.9.1: Maintenance: The owner of the facility shall maintain the facility in good condition. Such maintenance shall include, but shall not be limited to, painting; maintenance of the structural integrity of the mount and security barrier; and maintenance of the buffer areas, fencing, landscaping, and driveway.

575.9.2: Subleases or Transfers of Ownership: Any new lease, sublease, or transfer of ownership of any facility permitted under this Ordinance shall be reported to the Town of Holderness, and adequate provision made for the continuation of security under Section 575.11. Violation of this section shall be grounds for revocation of the Site Plan approval.

575.10: Abandonment or Discontinuation of Use

575.10.1: Any antenna or tower that is not operated for a continuous period of 12 months shall be considered abandoned and hazardous to the public health and safety, unless the owner of said tower provides proof of quarterly inspections. The owner shall remove the abandoned structure within 90 days of receipt of a declaration of abandonment from the Town of Holderness. A declaration of abandonment shall only be issued following a public hearing, noticed per Town regulations, with notice to abutters and the last known owner / operator of the tower. If the abandoned tower is not removed within 90 days, the Town may execute the security and have the tower removed. If there are 2 or more users of a single tower, this provision shall not become effective until all users cease using the tower.

575.10.2 At such time that a carrier plans to abandon or discontinue operation of a telecommunication facility, such carrier shall notify the Town of Holderness by certified US mail of the proposed date of abandonment or discontinuation of operations. Such notice shall be provided no less than 30 days prior to abandonment or discontinuation of operations.

575.10.3: Removal includes, but is not limited to, removal of antennas, mount, equipment shelters, and security barriers from the subject property; proper disposal of waste materials from the site in accordance with local and state solid waste disposal regulations, and restoration of the location and area of the facility to its natural condition.

575.11: Performance Security: Performance Security shall mean (1) an irrevocable letter of credit with an automatic call provision issued by a bank with banking office in the State of New Hampshire (LOC) or (2) cash in United States currency held in escrow by the Town (cash bond).

575.11.1: A Telecommunications Facility Performance Security shall be required for the removal and disposal of abandoned telecommunications facilities where the facility owner is unwilling or unable to remove the facility in accordance with Section 575.10. The amount of the Performance Security shall be based upon the removal cost plus 10 percent provided by the Applicant and certified by an independent structural engineer licensed in New Hampshire. Every 5 years from

the date of plan approval. The owner of the facility shall provide the Planning Board with a revised removal cost estimate and structural evaluation prepared by an independent professional structural engineer licensed in New Hampshire, ~~every 5 years from the date of plan approval.~~ If the cost has increased more than 10 percent, the owner of the facility shall be required to increase the amount of the Performance Security pro rata.

575.11.2: Review of the application by an independent State of NH licensed professional engineer, at the Applicant's expense, may be required to develop a cost estimate for the Performance Security to assist the Planning Board in setting the amount of the Performance Security and to ensure that the application adequately addresses all issues related to the Town's interests as defined in the Zoning Ordinance and regulations.

575.11.3: The Planning Board, with advice from Town Counsel, shall work with the engineer to reach approval of the engineer's cost estimate before the Applicant obtains the Performance Security. The Performance Security shall not be released until the Town is satisfied that the project plan has been accomplished and is satisfied that all conditions of the approval and any other pertinent zoning ordinance, subdivision regulation, site plan regulation, or building requirements have been met.